

REMARKS

The applicant hereby affirms election of claims 1-15 for prosecution. Claims 1-15 are pending, and new claims 23-25 are added; claims 16-22 are withdrawn.

None of the cited art discloses, alone or in the combinations suggested by the Office action, the beverage systems recited in claims 1-15 and 23-25. The beverage systems include a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, where the plurality of portions includes at least two different types of portions each capable of making a different beverage. Thus, with a single beverage system according to one of the claims, a consumer can conveniently make multiple different types of beverages when desired. For example, the specification of the present application describes that "[p]roviding different flavorings of the portions of concentrate allows consumers to conveniently create a wide variety of freshly made drinks when desired." (Page 8, l. 35 - page 9, line 3.)

Claims 1, 2 and 9-11 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,627,334 to Shanklin. The applicant respectfully submits that claims 1, 2 and 9-11, as presently recited, are not anticipated by Shanklin.

More specifically, Shanklin does not disclose a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage, as presently recited in claim 1, and by dependency in claims 2 and 9-11. Instead, Shanklin merely discloses a powdered beverage storage container 18 which holds powdered beverage material 112. There is no disclosure that the powdered beverage material 112 of Shanklin comprises a single-serving size portion. Just the opposite, the need for the complex canister lid 20 and canister flow control disc 22 suggests that the powdered beverage material 112 is not in single-serving size portions.

Indeed, the complex lid 20 arrangement of Shanklin teaches away from the individual serving-size portions recited in claim 1. By providing individual serving size portions in the beverage system of claim 1, there is no need for complex dispensing apparatus, such as Shanklin discloses for dispensing the powdered beverage material 112.

Moreover, the use of non-single-serving portions of powdered beverage material 112 in Shanklin teaches away from having different portions contained within an inner cup, where the different portions are capable of being combined with a liquid to make different beverages. If two or more different types of powdered beverage materials were provided in the container 18 of Shanklin, nothing is disclosed that would prevent the materials from mixing in the container 18, thereby preventing the materials from having the flexibility of making two different types of beverages.

Claims 1-3 and 9-11 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,756,424 to Schwartz. The applicant respectfully submits that claims 1, 3 and 9-11, as presently recited, are not anticipated by Schwartz.

Schwartz discloses a plurality of receptacles 40 removably receivable within a cup 10'. Schwartz describes that "[e]ach of the receptacles 40 may contain a beverage making ingredient such as coffee, sugar, or powdered cream, or other beverage making ingredients according to the desire of the individual." (Col. 2, ll. 65-68.) Schwartz merely discloses receptacles that may contain beverage making ingredients. Schwartz clearly does not disclose a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage, that are received in one of the receptacles 40.

Claims 1, 2, 4, 9 and 11 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,934,525 to Robinson. The applicant respectfully submits that claims 1, 2, 4, 9 and 11, as presently recited, are not anticipated by Robinson.

Robinson does not disclose a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage, as presently recited in claim 1, and by dependency in claims 2, 4, 9 and 11. Robinson discloses a coffee sample comprising a container 10 divided into an upper compartment and a lower compartment by a divider plate 24. Robinson discloses that articles, such as powdered coffee 32, coffee flavored gelatin 36 and coffee flavored extract 38, can be placed in the upper compartment. In another embodiment, illustrated in Figures

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4-6 of Robinson, a coffee mug 26 and a pair of tumblers 28 and 28a are disclosed as being disposed in the upper compartment. Powdered coffee 32, coffee flavored candies 34, coffee flavored gelatin 36 and coffee extract 38 are disclosed as being within the tumblers 28 and 28a and mug 26. Absent from Robinson is any disclosure of providing different types of individual single-serving size portions of concentrate within an inner cup which is removably received within an outer cup.

Claims 1,3 and 11 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,018,904 to Muraoka. The applicant respectfully submits that claims 1, 3 and 11, as presently recited, are not anticipated by Muraoka.

Muraoko does not disclose a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage, as presently recited in claim 1, and by dependency in claims 3 and 11. Instead, Muraoko discloses that an inner receptacle receives an instant food A within an inner receptacle. There is no disclosure that the instant food A is in portion form, or that more than one different type of instant food A, capable of making separate beverages, are contained within the inner receptacle.

In addition, Muraoko discloses that the beverage is served out of the inner receptacle 3, not the outer receptacle 2. "Hot water is poured into the interior of the inner receptacle 3 to cause the food to be softened or rehydrated in a refreshed state. The eater can sip the soup with his lips on the flange 18 of the inner receptacle 3." (Col. 3, ll. 46-50.) Indeed, Muraoko discloses projections and ribs which engage between the inner and outer receptacles so that the receptacles are not easily withdrawn.

Claims 4, 7, 8, 12, 13 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz in further view of U.S. Patent No. 3,620,759 to Maddox. The applicant respectfully submits that claims 4, 7, 8, 12, 13 and 15 are not unpatentable over Schwartz in view of Maddox. As discussed above, Schwartz does not disclose the beverage system as presently recited in claim 1, from which claims 4, 7, 8, 12, 13 and 15 depend. However, Maddox also does not teach, alone or in combination with Schwartz, a plurality of individual single-serving size portions of concentrate capable of being

combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage. More specifically, no suggestion is provided in Maddox for the combination of one of its capsules containing a first beverage ingredient with another of its capsules containing a second beverage ingredient in the claimed beverage systems.

Claims 5 and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz in further view of U.S. Patent No. 6,180,149 to Gramm. The applicant respectfully submits that claims 5 and 6 are not unpatentable over Schwartz in view of Gramm. As discussed above, Schwartz does not disclose the beverage system as presently recited in claim 1, from which claims 5 and 6 depend. Moreover, Gramm also does not teach, alone or in combination with Schwartz, a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage. To the contrary, Gramm discloses only providing, if at all, a single type of beverage ingredient at one time.

Claims 12 and 13 stand rejected under 35 U.S. 103(a) as being unpatentable over Schwartz in further view of U.S. Patent No. 1,931,765 to Leever. The applicant respectfully submits that claims 12 and 13 are not unpatentable over Schwartz in view of Leever. As discussed above, Schwartz does not disclose the beverage system as presently recited in claim 1, from which claims 12 and 13 depend. However, Leever also does not teach, alone or in combination with Schwartz, a plurality of individual single-serving size portions of concentrate capable of being combined with liquid to make a beverage, said plurality of portions including at least two different types of portions each capable of making a different beverage. More specifically, no suggestion is provided in Leever for the combination of one of its capsules containing a first beverage ingredient with another of its capsules containing a second beverage ingredient in the claimed beverage systems.

Given the above discussions of the cited references, it is respectfully submitted that claims 1-15 and 23-25 are allowable. Reconsideration of claims 1-15 and allowance of claims 1-15 and 23-25 are respectfully requested.

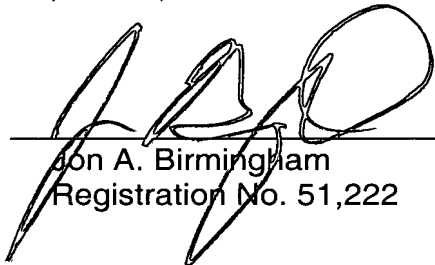
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The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

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